IN THE

SUPREME COURT OF THE UNITED STATES

October Term, 1972

NO. 72-277

HENRY C. FORTENBERRY, father of
GARY C. FORTENBERRY, deceased,
Petitioner,

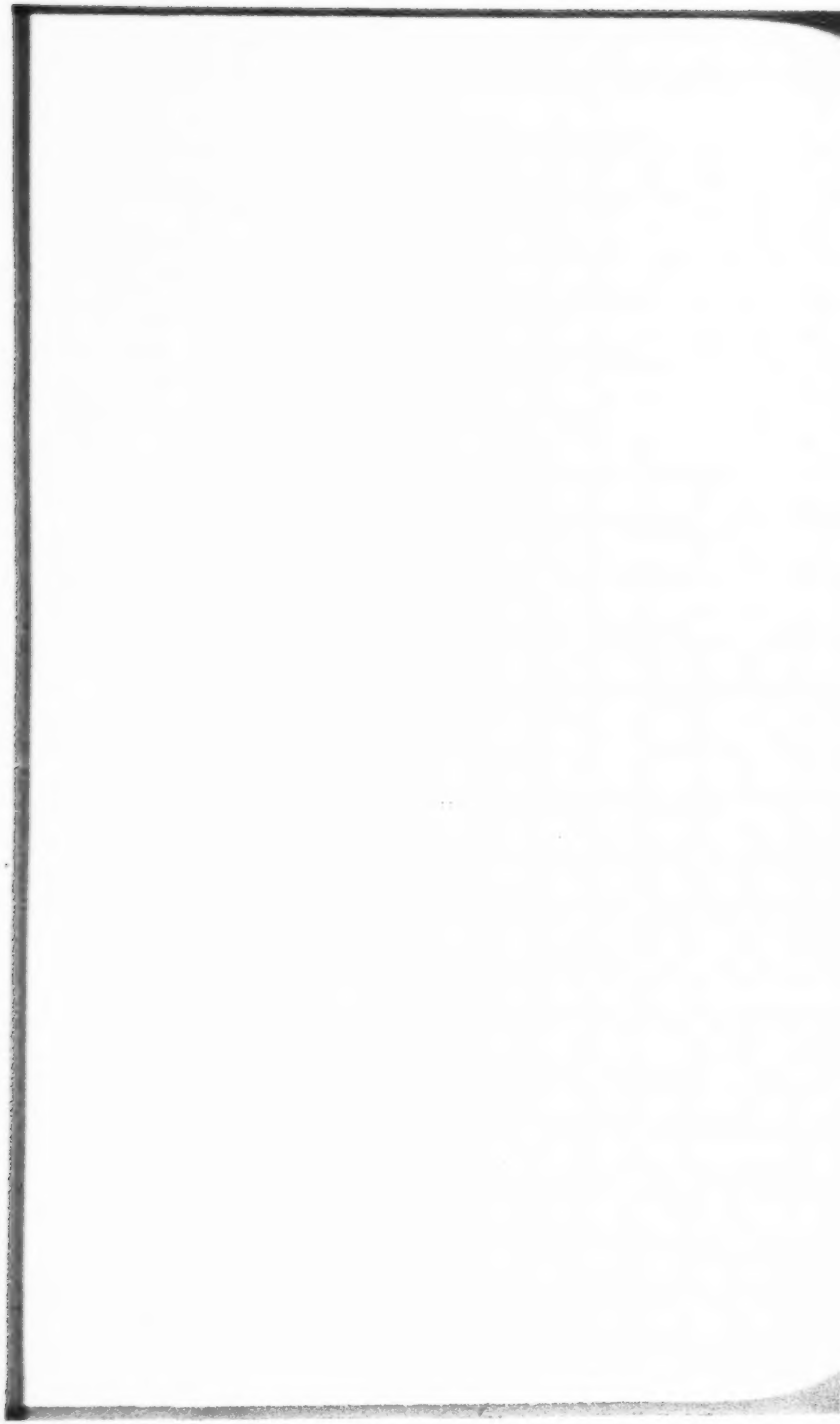
v.

NEW YORK LIFE INSURANCE COMPANY,
Respondent.

MOTION FOR LEAVE TO FILE PETITION FOR REHEARING

PETER L. NILES,
1209 South Peninsula Drive,
Daytona Beach, Florida 32018,
Attorney for Petitioner.

TENNESSEE LAW PRINTERS, P. O. Box 277, Knoxville, Tennessee, Phone 525-4202



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Comes, the Petitioner, HENRY C. FORTENBERRY, father of GARY C. FORTENBERRY, Deceased, by and through his attorney, Peter L. Niles, and respectfully moves this Honorable Court for Leave to File Petition for Rehearing in this cause.

Petitioner would show to the Court in support of its Motion for Leave to File Petition for Rehearing that a Petition of Certiorari was heretofore filed and this Court,

on November 6th, 1972, entered an Order Denying the Petition for Writ of Certiorari in this case.

That Petitioner's attorney was outside of the City of Daytona Beach, Florida from December 1, 1972, by reason of his marriage in Atlanta, Georgia and was outside the country, until December 30th, 1972 on a honeymoon and that because of Petitioner's attorney being outside the country, did not have an opportunity to file a Petition for Rehearing in this Cause.

Petitioner would further show to the Court that Petitioner's Motion for Rehearing is premised upon a decision of the District Court of Appeals for the Eighth Circuit which was rendered October 16, 1972 and not reported until November 13, 1972, approximately one week after this Honorable Court's decision on Petitioner's Petition for Certiorari and Petitioner would show the Court that this decision materially effects Petitioner's cause and did not come to Petitioner's attention until after Petitioner's attorney returned to the Country on December 30th.

WHEREFORE, Petitioner respectfully prays that this Court will grant Petitioner's Motion for Leave to File this Petition for Rehearing.

Respectfully submitted,

PETER L. NILES,
Attorney for Petitioner